

CLERK'S OFFICE U.S. DIST. COURT
AT ROANOKE, VA
FILED

JUL 08 2022

Dillon
District Judge
Assign. by Clerk's Ofc.IN THE UNITED STATES DISTRICT COURT
for the WESTERN DISTRICT OF VIRGINIABY: JULIA C. DUDLEY, CLERK
DEPUTY CLERKHoppe
Mag. Referral Judge
Assign. by Clerk's Ofc.

For use by Inmates filing a Complaint under

CIVIL RIGHTS ACT, 42 U.S.C. §1983 or BIVENS v. SIX UNKNOWN NAMED AGENTS OF FED. BUREAU OF NARCOTICS, 403 U.S.C. §388 (1971)Rodney-Vance i Frith
Plaintiff full name1273826
Inmate No.

v.

CIVIL ACTION NO. 7:22 cv. 00389
(Assigned by Clerk's Office)Harold Walter Clarke
Defendant(s) full name(s)Kyle

A. Where are you now? Name and address of facility Augusta Correctional Center, 1821 Estaline Valley Road
Craigsville, Virginia 24430B. Where did this action take place? Augusta Correctional Center

C. Have you begun an action in state or federal court dealing with the same facts involved in this complaint?

☒ Yes ☐ No

If your answer to A is Yes, answer the following:

1. Court: Augusta Circuit Court
2. Case Number: CL21001578-00

D. Have you filed any grievances regarding the facts of this complaint?

☒ Yes ☐ No

1. If your answer is Yes, indicate the result:

Resubmit, then expired, issue, unfounded

2. If your answer is No, indicate why:

E. Statement of Claim(s): State briefly the facts in this complaint. Describe what action(s) each defendant took in violation of your federal rights and include the relevant dates and places. **Do not give any legal arguments or cite any cases or statutes.** If necessary, you may attach additional page(s). Please write legibly.

Claim #1 – Supporting Facts – Briefly tell your story without citing cases or law:

Harold Walter Clarke, Director of D.A.C., is in charge of all inmates in Virginia, for their health and well being. He violated my right to medical care, timely, see attached

Claim #2 – Supporting Facts – Briefly tell your story without citing cases or law:

Kyle Alexander Smith, Doctor at Augusta Correctional Center, in charge of medical care, health and well being, and violated my right to medical care, timely, see attached

F. State what relief you seek from the Court. Make no legal arguments and cite no cases or statutes.

I seek \$5 million dollars, for irreplaceable body parts / each

G. If this case goes to trial, do you request a trial by jury? Yes ☒ No ☐

H. If I am released or transferred, I understand it is my responsibility to immediately notify the court in writing of any change of address **after** I have been released or transferred or my case may be dismissed.

SIGNATURE: Rodney Vance Firth Date 6/30/2022

VERIFICATION:
I, Rodney Vance Firth, state that I am the plaintiff in this action, and I know the content of the above complaint; that it is true of my own knowledge, except as to those matters that are stated to be based on information and belief, and as to those matters, I believe them to be true. I further state that I believe the factual assertions are sufficient to support a claim of violation of constitutional rights. Further, I verify that I am aware of the provisions set forth in 28 U.S.C. §1915 that prohibit an inmate from filing a civil action or appeal, if the prisoner has, on three or more occasions, while incarcerated brought an action or appeal in federal court that is dismissed on the grounds that it was frivolous, malicious, or failed to state a claim upon which relief may be granted, unless the prisoner is in imminent danger of serious physical injury. I understand that if this complaint is dismissed on any of the above grounds, I may be prohibited from filing any future actions without the pre-payment of the filing fees. I declare under penalty of perjury the foregoing to be true and correct.

SIGNATURE: Rodney Vance Firth Date: 6/30/2022

ⓧ F section relates to each in relief.

Continued, Claim #1

Harold Walter Clarke, is Liable in his Professional and individual Capacity. He was Responsible for all Staff, employees of the Virginia State Correctional Facilities, and has Violated the 8th Amendment, denied prompt Medical Care, and is negligent, so as to cause (2) amputations, opposite feet, as VCU Report, clearly states osteomyelitis definitely diagnosed both feet. Report was received on 10/21/2020

Harold Walter Clarke, has access, and these Reports, health and welfare, led to the documented injury, extent of injury was hidden to inmate, as prison doc not, does not want Inmate's through knowledge of their Health.

The Director of D.O.C., has Responsibility to Protect the Health and Safety of all inmates in Virginia. He is held Responsible. A loss of (4) bones.

The Director falls under, "Color of State," of Virginia, under § 8.01-195.2, as in this case, defendant(s), here so named, and yet known fully, "Deliberate Indifference," of a Medical Condition, to know, yet caused a permanent injury, and suffering.

⊗ Tort Claims under Article 18.1, and definitions § 8.01-195.2

Continued Claim #2

Kyle Alexander Smith, is liable in his Professional and Individual Capacity. He is under "Color of Virginia State". He Violated the 8th Amendment, to Medical Care, that was to lead to (2) amputations, opposite feet. A re-section of Right foot 3rd Metatarsal on 11/3/2020, and Left-foot 3rd toe, approximately 8½ months later, and was negligent to have 2 Medical Requests, on 2/10/2020, a 2nd notice on 2/21/2020, the first not returned, notice of infected toe.

On 3/12/2020, finally seen, was not given antibiotics until 3/19/2020. A biopsy topical was done, not deep tissue. Wrong biopsy. A 45 day Regimen of Ciprofloxacin, Clindamycin completed. 4 weeks later a foul odor was present. A 2nd Biopsy was done. Was Continued on same until results of biopsy. A change of antibiotics to Rifampin and Levofloxacin was prescribed.

A C-T scan done at Augusta Health Hospital (see Report VCU, dated 10/21/2020 received) specifically states, definitely diagnosed Osteomyelitis, left and right foot.

A trip to VCU in Richmond, Virginia, was seen by Dr. Clarence Toney on 7/29/2020. I had only been on correct antibiotics 13 days. Dr. Toney, was disturbed that bleeding and drainage had lasted over 5 months. Told me to Stop taking antibiotics, and return in 2 weeks. I was not taken back to VCU, nor Returned on Antibiotics complete cycle.

Dr. Smith, later ordered a M.R.I. at Augusta Health Hospital, but only on Right Foot. M.R.I. confirms Osteomyelitis. A 3rd infection about 10/ /2020, taken to Augusta Health Hospital,

I had been throwing-up, could not eat, 101.6 temperature, in (M-2 (Prison) sick surgery pod), given prescription antibiotics. I had lost 8 pounds.

On 11/3/2020, re-section of 3rd Metatarsal removed, a Regan of antibiotics intravenously given. Several veins blew-out. It should be noted, daily wound dressings for over 8 months since beginning. Pain level from 3 and up was experienced.

This removal of bone has continued pain, affects my walking, and in between only Tylenol, ibuprofen, over-the-counter, meds.

In July-August, Covid outbreak, all inmates (diabetics to gym). an infection to 3rd toe, Left Foot occurred. A request to Medical was seen. Sporadic antibiotics couple days, but after about 7 days, swelling, infection, hot to touch, skin, was sent to UVA, for, osteomyelitis in Left foot, 3rd toe, re-section. Several regimens of intravenous antibiotics, continued for my 7 day hospitalization. It should be noted, nurse Mary, tried to verify that antibiotics were indeed at Augusta Correctional Center, and it took 2 days to "Confirm," they were there.

The seriousness, of continued infections, a "Port" was discussed to do intravenous antibiotics, for an extended time, but was not done.

This, 2nd amputation, is due to re-infection, as if bacteria, not killed, will wear-off, the antibiotics, and re-emerge. As negligence by Dr. Smith, to fully, timely, give proper biopsy, antibiotics, seek both feet M.R.I scan, as C-T scan proved, and return to VCU, allowed further destruction of bone, undue pain and suffering, hospitalized, in chains 7 days, and over 200 days of quarantine during those 2 amputations, and the irreplaceable bones, restricted balance, and pain during walking. * Remark Next Page.

It is further noted, in VCU report, I had 3 types of bacteria, in my right foot. E-Coli, Staph, and Stenophomas.

I written to Augusta Health, and UVA, for a Copy of Reports. None has been given, to further substantiate full extent of injury.

My Constitutional Right to Medical Care, is and has been done by Dr. Kyle Alexander Smith. Deliberate Indifference was present, for a Medical need.

Dr. Kyle Alexander Smith, Defendant caused this pain and suffering

On 7/27/2021 went to hospital. Left foot, 3rd toe cut off at Augusta Health Hospital. Left hospital 8/2/2021.

Claim #3 et-al

Upon a through Discovery, the Warden's Full Name at Augusta Correctional Center, there were (2), to later amend, its implications and involvement. These Wardens were in Charge of ACC, and are liable in their Professional and Individual Capacity, as the Health and Safety of all inmates at ACC. Those Rights were Violated by the 8th Amendment, of Proper Medical Care. The Wardens are Responsible for all staff, and activities at the Center. This includes Physical address, as well. They are under the "Color of State", of Virginia.

Claim #4

Upon a through Discovery, the Medical Providers, Responsible Party(s), be named, for Augusta Correctional Center, physical address, to later amend, its implications and involvement. That they are Liable in their Professional and Individual Capacity, as the Health and Safety of all inmates at ACC. That these Rights were Violated by the 8th Amendment, for Proper, Timely, Medical Care. Their Full Names, party of Company, and as Contractors, and or/ D.O.C., fall under, "Color of State", of Virginia.

SECTION F -

Due to (2) amputations, as Exhibit (B) encompasses, Punitive, and Physical, and continuing exterminating pain, Physical, and side effects, irreplaceable body parts, and future medical care needed, the Relief here-in stated shall be to the Sum of \$5 million dollars, by each defendant, known, unknown until a full inquiry of Discovery.

Notes

Due to Issues with Legal Mail, ALL Return Correspondance must be sent to:

VA DOC CENTRALIZED MAIL DISTRIBUTION CENTER

RODNEY VANCE FRIETH #1273826

3521 WOODS WAY

STATE FARM, VIRGINIA 23160

RODNEY VANCE FRITH #1275626

AUGUSTA CORRECTIONAL CENTER
1821 ESTALINE VALLEY ROAD
CRAIGSVILLE, VIRGINIA 24430

CLERK

210 F

ROAD



DUE TO D.O.C. RESTRICTION MANDATES



THE DEPARTMENT OF CORRECTIONS HAS
NEITHER CENSORED NOR INSPECTED THIS
ITEM AND ASSUMES NO RESPONSIBILITY
FOR ITS CONTENT



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7/1/2022 ENACTED
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